

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEITH ERIC THOMPSON,

CIVIL CASE NO. 05-40293

Plaintiff,

v.

HONORABLE PAUL V. GADOLA
U.S. DISTRICT JUDGE

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

/

ORDER ACCEPTING REPORT AND RECOMMENDATION

This is a civil rights action under 42 U.S.C. § 1983 in which Plaintiff has named 94 defendants in their official and individual capacities. Before the Court is the Plaintiff's complaint, filed on September 15, 2005 and the Report and Recommendation of Magistrate Judge Steven D. Pepe, filed on April 17, 2006. The Magistrate Judge recommends that Plaintiff's complaint be dismissed for failure to exhaust the administrative remedies. Plaintiff filed a motion for extension of time to file objections on May 1, 2006. This court granted Plaintiff's motion on May 3, 2006. Plaintiff filed his objections to the report and recommendation on May 24, 2006.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). If a party objects to portions of the Report and Recommendation, the Court reviews those portions de novo. *Lardie*, 221 F. Supp. 2d at 807. The Federal Rules of Civil Procedure dictate this standard of review in Rule 72(b), which states, in relevant part, that

[t]he district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

Fed. R. Civ. P. 72(b). Here, because Plaintiff filed objections, this Court reviews de novo those portions to which an objection has been made. *See Lardie*, 221 F. Supp. 2d at 807.

De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge; the Court may not act solely on the basis of a Magistrate Judge's Report and Recommendation. *See* 12 Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 3070.2 (1997); *see also Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court may supplement the record by entertaining additional evidence, but is not required to do so. 12 Wright, Federal Practice § 3070.2. After reviewing the evidence, the Court is free to accept, reject, or modify the findings or recommendations of the Magistrate Judge. *See Lardie*, 221 F. Supp. 2d at 807. If the Court accepts a Report and Recommendation, the Court is not required to state with specificity what it reviewed; it is sufficient for the Court to state that it engaged in a de novo review of the record and adopts the Report and Recommendation. *See id.*; 12 Wright, Federal Practice § 3070.2.

The Court has reviewed the Plaintiff's complaint, the Magistrate Judge's Report and Recommendation, and the Plaintiff's objections. Having conducted this review under the de novo standard as detailed above, the Court concludes that the Magistrate Judge's reasoning and conclusions are sound.

ACCORDINGLY, IT IS HEREBY ORDERED that Defendants' objections [docket entry 19] are **OVERRULED**, and the Report and Recommendation is **ACCEPTED** and **ADOPTED** as

the opinion of this Court.

IT IS FURTHER ORDERED that the Plaintiff's complaint [docket entry 1] is **DISMISSED**.

SO ORDERED.

Dated: May 31, 2006

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on June 1, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Keith Thompson, and

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager
(810) 341-7845